



# Commonwealth of Massachusetts State Ethics Commission

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**SUFFOLK, ss.**

**COMMISSION ADJUDICATORY  
DOCKET NO. 641**

## **IN THE MATTER OF BRIAN PEDRO**

Appearances: Karen Beth Gray, Esq.  
Counsel for Petitioner

Commissioners: Wagner, Ch., Cassidy, Roach, Dolan

Presiding Officer: Commissioner Christine M. Roach, Esq.

### **RULING ON PETITIONER'S MOTION FOR A SUMMARY DECISION**

#### **I. Background**

This matter arises from the alleged failure of Respondent Brian Pedro ("Pedro"), the Press Secretary for the Massachusetts Bay Transportation Authority, to file his Statement of Financial Interests ("SFI") for calendar year 2000 in accordance with G.L. c. 268B and 930 CMR 2.00.

Pedro was required to file his SFI by May 1, 2001 and failed to do so. On May 4, 2001, the Commission sent a Formal Notice of Lateness ("Formal Notice") to Pedro, which was returned by the Post Office marked "unclaimed." On June 1, 2001, the Suffolk County Sheriff's Department served a Formal Notice on Pedro. This Formal Notice advised Pedro that his SFI had not been filed and was, therefore, delinquent and further, that failure to file such an SFI within ten (10) days would result in civil penalties. Therefore, Pedro's SFI was required to be filed by June 11, 2001. Pedro failed to file his SFI by June 11, 2001.

On June 12 and June 25, 2001, the Commission sent Pedro warning letters advising Pedro that an SFI had not been filed and was, therefore, delinquent and further, that failure to file such an SFI would result in civil penalties. Pedro failed to file his SFI in response to these warning letters. On August 8, 2001, the Commission found reasonable cause to believe that Pedro violated G.L. c. 268B, § 5(g), and by majority vote authorized the initiation of adjudicatory proceedings. Petitioner filed an Order to Show Cause ("OTSC") on October 16, 2001.

When Pedro failed to answer the OTSC, or respond in any way to the adjudicatory proceeding, Petitioner filed a Motion for a Summary Decision dated November 13, 2001. On December 5, 2001, the Hearing Officer, Commissioner Christine Roach, issued an Order requiring Pedro to show cause why a summary decision should not be entered against him by filing his Answer by December 17, 2001. Pedro did not file an Answer by that date. At its

meeting on December 19, 2001, the Commission considered and deliberated upon, Petitioner's Motion for a Summary Decision. To date, Pedro has not filed his SFI for calendar year 2000.

## **II. Decision**

In deciding a summary decision motion where a respondent has failed to respond to allegations set forth in an OTSC, the Commission may find a respondent has violated the law and weigh the seriousness<sup>1</sup> of that violation in determining the appropriate penalty.<sup>2</sup>

The Commission concludes that Pedro has violated G.L. c. 268B, § 5 by failing to file his SFI. Accordingly, where Pedro has failed to formally answer, or otherwise respond to these adjudicatory proceedings, pursuant to G.L. c. 268B, § 4(j)(3), the Commission may impose a maximum civil penalty of \$2,000 for each violation of c. 268B. The Commission has previously imposed civil penalties for violations stemming from a respondent's lack of response to the Commission's adjudicatory proceedings.<sup>3</sup> The penalty for non-filing of an SFI, as established by the Commission, is \$2,000.<sup>4</sup>

## **III. Order**

The Petitioner's Motion for a Summary Decision is GRANTED. Pursuant to the authority granted it by G.L. c. 268B, § 4(j), the Commission ORDERS Respondent Brian Pedro to:

1. File an SFI for calendar year 2000 within seven (7) days of receipt of this Ruling; and
2. Pay a civil penalty of Two Thousand Dollars (\$2,000) to the Commission within thirty (30) days of receipt of this Ruling for violating G.L. c. 268B, § 5 for failing to file an SFI.

## **IV. Notice of Right to Appeal**

Respondent is notified of his right to appeal this Ruling pursuant to G.L. c. 268B, § 4(k) by filing a petition in Superior Court within thirty (30) days of the issuance of this decision.

**Date Authorized: January 18, 2002**

**Date of Issuance: January 18, 2002**

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<sup>1</sup>See *Opinion of the Justices to the Senate*, 375 Mass 795, 807 (1978) (the filing of financial interest statements by public officials, employees and candidates rationally related to the achievement of the legitimate goal of assuring the people of impartiality and honesty of public officials).

<sup>2</sup>See *In the Matter of Thomas H. Nolan*, 1989 SEC 361.

<sup>3</sup>See *Nolan*, 1989 SEC 361 (\$2,000 penalty imposed with summary decision order based on respondent's failure to answer adjudicatory proceedings).

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<sup>4</sup>The Commission has established the following schedule of penalties for SFIs filed more than ten (10) days after receipt of a Formal Notice:

1-10 days delinquent:	\$50
11-20 days delinquent:	\$100
21-30 days delinquent:	\$200
31 days or more delinquent:	\$500
Non-filing:	\$2,000